www.GOP.gov
LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE
CHAIRMAN ADAM PUTNAM WASHINGTON D.C. 226-2302

H.R. 3567 – Small Business Investment Expansion Act of 2007

EXECUTIVE SUMMARY

H.R. 3567 was reported out of the Committee on Small Business by voice vote on September 18, 2007 and would provide additional federal capital and new incentive programs for increased investment in small businesses. The bill would make it easier for private investment companies to qualify to participate in the Small Business Administration's business investment programs. The bill also creates a new "Angel Investment Program," to encourage investment in small start-up businesses.

The Administration has voiced strong opposition to the Angel Investment program stating that "The best way to strengthen small business is through an economic framework that encourages investment at all levels through broad-based and reasonable tax rates and reduced regulatory impediments to the flow of capital. This approach will have a more significant impact than any targeted program."

The Administration and Committee Republicans have both voiced strong opposition to a provision of the bill that will change the definition of a small business for the purposes of venture capital investment, and both feel that this provision is overly broad and will have unintended consequences. Ranking Member Chabot (R-OH) has offered an amendment with a much clearer definition of a small business for the purpose of venture capital investment that should address many of the Administration's concerns.

The Congressional Budget Office (CBO) estimates that implementing H.R. 3567 would cost $8 million in 2008 and $102 million over the 2008-2012 period, assuming appropriation of the necessary funds and specified amounts.

FLOOR SITUATION

H.R. 3567 is being considered on the floor pursuant to a rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Republican Member of the Small Business Committee.
- Waives all points of order against consideration of the bill except those arising under clause 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Waives all points of order against provisions in the bill.

- Makes in order three amendments that may be offered only in the order that they are printed in the report and provides that each amendment shall be debatable for 10 minutes.

- Waives all points of order against the amendments except those arising under clause 9 (earmarks) and 10 (PAYGO) of Rule XXI.

- Provides one motion to recommit with or without instructions.

- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

H.R. 3567 was introduced by Representative Jason Altmire (D-PA) on September 18, 2007. The bill was ordered to be reported by the Small Business Committee, by voice vote, on September 20, 2007.

The bill is expected to be considered on the floor of the House of Representatives on September 26, 2007.

SUMMARY

Title I – Small Business Investment Company (SBIC) Program

H.R. 3567 implements a new system of rate limits for levels of federal funding capital that are available from the Small Business Administration (SBA) for Small Business Investment Companies (SBICs) to invest in small businesses. The new rates will replace a formula system and will provide up to $150 million for one SBIC and up to $225 million for multiple SBICs that are under common control and ownership. (Section 101)

H.R. 3567 implements an incentive program that increases the caps on the amount of capital available from the SBA for SBICs that certify in writing that over fifty percent of their investments will be made in small businesses that are majority owned by socially or economically disadvantaged individuals, including women and veterans. (Section 102)

The bill requires that SBICs make at least twenty five percent of their investments in smaller enterprises (less than $2 million). (Section 103)

The bill increases the limits on how much an SBIC can invest in any one business by replacing the existing formula that is used to calculate the allowable investment in a business. (Section 104)

Title II – New Markets Venture Capital Program

H.R. 3567 requires the SBA Administrator to increase the number of New Market Venture Capital Companies (NMVCCs) throughout the country. (Section 202)

**Note: NMVCCs are designed to provide equity to small businesses in poor regions throughout the country, and according to the Republican staff at the Small Business Committee, to date there are only a few NMVCCs and they are almost all located within 300 miles of Washington, D.C.*

The bill lowers the threshold for how much private capital a company must raise to qualify as a NMVCC from $5 million to $3 million. (Section 203)

The bill updates the SBA's definition of "low-income geographic area" to adopt the definition used in the tax code in order to authorize NMVCCs to fully invest in areas where there are tax credits to give companies incentives to invest in low-income areas. (Section 204)

H.R. 3567 authorizes conditionally approved NMVCCs to receive grants of up to $50,000 for operational assistance while they are awaiting final approval as an NMVCC and removes the requirement that NMVCCs raise matching funds in order to be eligible for conditional approval. (Sections 206 & 208)

**Note: If the conditionally approved NMVCC fails to receive final approval as an NMVCC, then the company must repay the grant(s).*

The bill requires the SBA to develop new forms for NMVCC applicants within 60 days of enactment of this Act that will substantially reduce the paperwork and affiliated cost burdens imposed on NMVCCs by the SBA's application process. (Section 207)

H.R. 3567 authorizes the appropriation of the necessary funds to offer $30 million in loan guarantees and $5 million in technical assistance grants to NMVCCs for fiscal years 2008 – 2010. (Section 208)

Title III – The Angel Investment Program

H.R. 3567 authorizes $50 million for fiscal years 2008 – 2010 for the creation within the SBA of an Office of Angel Investment which will provide up to $2 million in capital to SBA approved "angel groups," which are groups that make investments in small business that have been in existence for less than five years, have less than 75 employees, provide substantially all of their services in the United States, and are located within the specific geographic areas determined by the SBA.

Angel groups are required to repay the SBA for any investment on which the group makes a profit on a pro rata basis. (Section 382)

The bill authorizes $1 million to be available until expended for the SBA to create a searchable database to assist small businesses with identifying angel investors. (Section 383)

H.R. 3547 authorizes $4.5 million over fiscal years 2008 – 2010 for a grant program to educate small businesses and potential investors about angel networks, wherein any grant recipient must provide matching funds equal to 50% of the amount of the grant. (Section 384)

**Note: The Administration strongly opposes this program; please see the Additional Views section below for more details.*

Title IV – Surety Bond Program
According to the Republican staff at the Small Business Committee, "the surety bond program at the SBA enables those bidding on federal government contracts to obtain a surety bond guaranteeing that the job will be completed by the business or the surety (typically an insurance firm provides these bonds)."

H.R. 3567 formally authorizes in federal statute the SBA's surety bond program which enables bond underwriters to issue surety bonds without getting prior approval of the SBA. (Section 402)

The bill requires the SBA to repay on surety guarantees (bonds) it has approved. (Section 403)

**Note: According to the Republican staff at the Small Business Committee, "The SBA frequently denies repayment on guarantees even after approving them."*

This bill increases the limit on surety bonds from $2 million to $3 million.

Title V – Venture Capital Investment Standards
H.R. 3567 establishes new standards for determining whether a business is independently owned and operated, a criteria that must be met for a company to be eligible for participation in SBA programs and services. The new standards for eligible venture capital companies include requiring that an eligible company is not owned or controlled by any business concern that the SBA has already invested in, composed of less than 500 employees, and is located in the United States.

**Note: Republicans on the Small Business Committee are strongly opposed to the current language regarding the vague requirement that prohibits eligible venture capital companies from being owned or controlled by any business that the SBA that the SBA has already invested in as this is unduly vague and burdensome to companies with business that have a common investor or investors. Ranking Member Chabot has worked out compromise language with the Majority and has offered an amendment to establish a clearer definition on ownership and control. (See Chabot amendment below in the Amendments Section)*

BACKGROUND
According to the Small Business Administration's website: "the mission of the Small Business Investment Company (SBIC) program is to improve and stimulate the national economy and small businesses by stimulating and supplementing the flow of private

equity capital and long term loan funds for the sound financing, growth, expansion and modernization of small business operations while insuring the maximum participation of private financing sources."

AMENDMENTS
(Summaries appear below as they were submitted to the Rules Committee)
Rep. Steve Chabot (R-OH): The amendment establishes a bright line standard of majority stock ownership for determining whether a venture capital company is affiliated with the companies in which it invests.

Reps. Jay Inslee (D-WA) & Peter Welch (D-VT): The amendment expands the definition of operational assistance in Section 351 of the Small Business Investment Act, to include assistance to help small businesses achieve energy efficiency and implement sustainable practices that reduce the use of non-renewable resources or minimize environmental impact and reduce overall costs and increase health of employees.

Reps. Jay Inslee (D-WA) & Peter Welch (D-VT): The amendment would direct the SBA Administrator to give consideration to investments for small businesses that are creating new technologies, manufactured goods, or materials, or providing services

COST
The Congressional Budget Office (CBO) estimates that implementing H.R. 3567 would cost $8 million in 2008 and $102 million over the 2008-2012 period, assuming appropriation of the necessary funds and specified amounts. (At the time of publication the CBO Cost estimate was not available on CBO's website, but can be found within the Committee Report on H.R. 3567)

ADDITIONAL VIEWS
The President's Statement of Administration Policy on H.R. 3567 states that: "The Administration strongly opposes House passage of H.R. 3567."

"The Administration strongly opposes the proposed "Angel Investor" program. The Administration does not support providing capital to high net worth individuals to support their investments. The best way to strengthen small business is through an economic framework that encourages investment at all levels through broad-based and reasonable tax rates and reduced regulatory impediments to the flow of capital. This approach will have a more significant impact than any targeted program."

"The Administration also strongly opposes the proposed change to the definition of a small business for the purposes of venture capital investment. This redefinition strips the elements of independent ownership and control that identify small business ownership under current law. Not only would this change be inequitable for actual small businesses, but it would be a step backward from our recent progress in addressing the misidentification of large firms as small businesses for Federal procurement purposes. By eliminating the concept of affiliation for venture capital operating companies, the provision would allow large businesses, not-for-profit organizations, and colleges and universities to own and control small businesses and benefit from programs designed for independent small businesses. The Administration believes that the intent of this provision is to allow for reasonable, non-controlling investment in small business. Unfortunately, the current language is overly broad, and the Administration strongly opposes this provision unless it is amended to ensure that ownership and control rests positively with the entrepreneur."

STAFF CONTACT

For questions or further information contact Matt Lakin at (202) 226-2302.